

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

KRISBER CASTRO and MARIO CASTRO,)
)
Plaintiffs,) No. 10-cv-7211(ER)(PED)
)
v.)
)
GREEN TREE SERVICING LLC, and)
KEVIN SMITH,)
)
Defendant.)

**Declaration of Plaintiff Mario Castro in
Opposition to Defendants' Motion for Summary Judgment**

I, Mario Castro, declare under penalties of perjury that the following is true and correct:

1. Together with my wife, Krisber Castro, I am one of the plaintiffs in this case, and I am making this declaration in opposition to the Defendants' motion for summary judgment, and their motion to limit my damages.
2. My wife and I have a cell phone plan through Verizon Wireless. We have had that plan the entire time that the Defendants were harassing us. It is a family plan that gives us two cell phone numbers: 845-536-9192, and 845 536-9193. I primarily use the 9193 number and my wife primarily uses the 9192 number, although there are times when I may use the 9192 number or vice versa. We get one bill that we pay each month from our joint funds.

3. Neither I nor my wife ever gave the Defendants consent to call our cell phones. We never gave Defendants consent to robo-call any of our phones. We in fact told them to stop calling, but they ignored this.

4. Green Tree constantly called our cell phone number 845-536-9192. We could tell that it was Green Tree from the Caller ID on our cell phone. Sometimes they left messages on our voice mail, sometimes they just hung up. Sometimes we would speak to them. Each time Defendant called, the phone would ring and we would hear it. We would recognize that it was Green Tree that was calling. This happened consistently and because my wife carried the cell phone wherever she went, we could not get away from it. I estimate that Green Tree called 845 -536-9192 approximately 100 times.

5. The Defendants engage in a year-long campaign of harassment and abuse of me and my wife. Among other actions, Defendants called us over 550 times; Defendants called our neighbors; Defendant threatened to keep calling our neighbors; and Defendants threatened to foreclose on our house.

6. My wife was pregnant during the time that this was occurring. The Defendants' conduct caused my wife emotional distress, anxiety, headaches, insomnia, stress, invasion of privacy, embarrassment, humiliation, crying spells, and fear. I personally witnessed my wife suffering these ailments because of the Defendants conduct.

7. The Defendant's conduct caused me emotional distress, anxiety, headaches, stomach problems, diarrhea, insomnia, stress, invasion of privacy, embarrassment, humiliation, upset, and anger. I testified about this at deposition and I respectfully request to be permitted to tell my story to a jury.

Dated: 2/21/2013



Mario Castro